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**BALL JANIK LLP**

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KARL MORELL

kmorell@dc.bjllp.com

August 2, 2005

BY HAND DELIVERY

The Honorable Vernon Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Suite 700  
Washington, DC 20423-0001

**FILED**

AUG 2 - 2005

**SURFACE  
TRANSPORTATION BOARD**

Re: STB Finance Docket No. 34737, Yellowstone Valley Railroad, Inc.  
-- Lease Exemption -- BNSF Railway Company

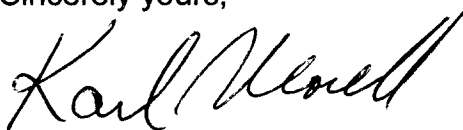
Dear Secretary Williams:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.31 and a check covering the \$1,500 filing fee. Also enclosed is a 3.5-inch diskette containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please contact me.

Sincerely yours,



Karl Morell

Enclosures

**ENTERED**  
**Office of Proceedings**  
AUG 3 2005  
**Part of**  
**Public Record**

**FEE RECEIVED**  
AUG 2 2005  
**SURFACE  
TRANSPORTATION BOARD**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34737

YELLOWSTONE VALLEY RAILROAD, INC.  
--LEASE AND OPERATION EXEMPTION--  
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

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KARL MORELL  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

Attorney for:  
YELLOWSTONE VALLEY  
RAILROAD, INC.

Dated: August 2, 2005

BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34737

YELLOWSTONE VALLEY RAILROAD, INC.  
--LEASE AND OPERATION EXEMPTION--  
BNSF RAILWAY COMPANY

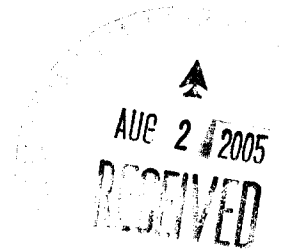
VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

Yellowstone Valley Railroad, Inc. ("YVRR"), a non-carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart D--Exempt Transactions, to permit YVRR to lease from BNSF Railway Company ("BNSF") and operate two rail lines located in Montana and totaling 171.97 miles in length. As part of this transaction, YVRR will also acquire incidental trackage rights over two segments of rail line owned by BNSF.

In support of this Notice of Exemption, YVRR submits the following information as required by 49 C.F.R. § 1150.33:

- (a) Full name and address of applicant:

Yellowstone Valley Railroad, Inc.  
315 W. 3<sup>rd</sup> Street  
Pittsburg, Kansas 66762



(b) Applicant's Representative:

Karl Morell  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005  
(202) 638-3307

(c) Statement of Agreement:

YVRR has entered into an agreement with BNSF for the lease of the rail lines.

(d) The operator of the property:

YVRR will be the operator of the leased lines.

(e) Summary of proposed transaction:

(1) The name and address of the company leasing the subject property:

BNSF Railway Company  
2650 Lou Menk Drive  
Fort Worth, Texas 76131

(2) The involved transaction is expected to be consummated on or shortly after August 15, 2005.

(3) The rail lines that YVRR will lease are located between: (1) Milepost 6.0, near Glendive, Montana, and Milepost 78.6, near Snowden, Montana; and (2) Milepost 0.93, near Bainville, Montana, and Milepost 100.3, near Scobey, Montana. The incidental, overhead trackage rights YVRR is acquiring are located between: (1) Milepost 78.6, on the BNSF Sidney Subdivision near Snowden, Montana, and Milepost 0.93, on the BNSF Scobey Subdivision, near Bainville, Montana via the BNSF Glasgow

Subdivision between Snowden and Bainville; and (2) Milepost 6.0, near Glendive, and Milepost 0, at Glendive, Montana.

- (4) The length of the rail lines being leased is approximately 171.97 miles. The length of the incidental trackage rights being acquired is approximately 28.2 miles.

(f) A map of the rail lines being leased is attached as Exhibit A.

(g) YVRR hereby certifies that YVRR's projected revenues as a result of this transaction will not result in YVRR becoming a Class II or Class I rail carrier. YVRR further certifies that the projected annual revenue of YVRR will not exceed \$5 million. Consequently, the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

A caption summary, as required by 49 C.F.R. § 1150.34, is attached.

#### **ENVIRONMENTAL AND HISTORIC IMPACTS**

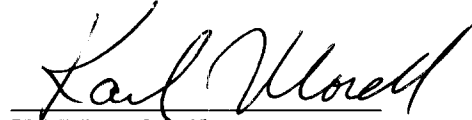
YVRR is leasing the rail lines from BNSF for continued rail operations. Further Board approval is required for YVRR to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

YVRR's lease and operation of the rail line will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. YVRR's lease and operation of the rail line will

not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,

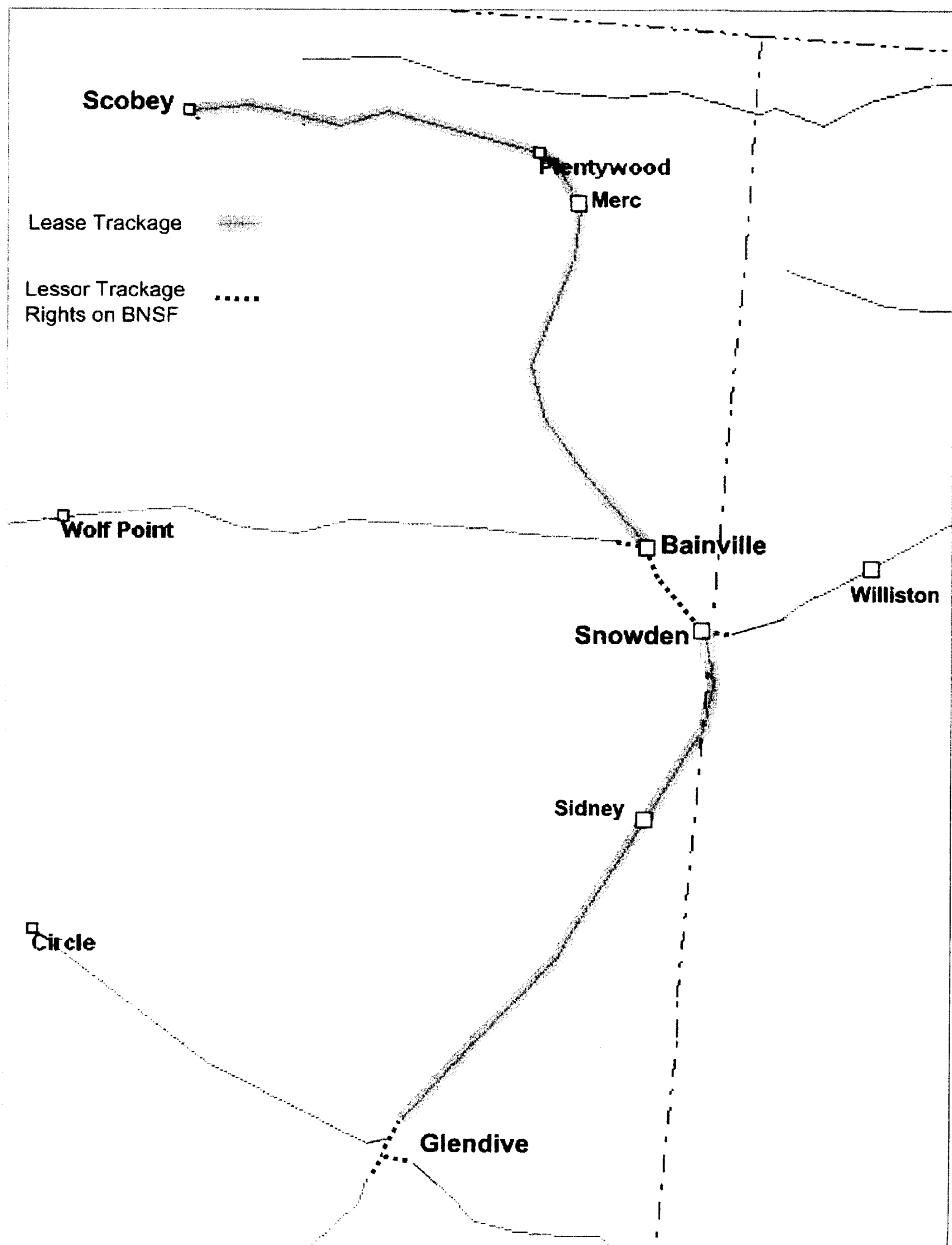
A handwritten signature in cursive script, appearing to read "Karl Morell", is written over a horizontal line.

KARL MORELL  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005  
(202) 638-3307

Attorney for:  
YELLOWSTONE VALLEY RAILROAD, INC.

Dated: August 2, 2005

# **EXHIBIT A**





SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34737

YELLOWSTONE VALLEY RAILROAD, INC.  
--LEASE AND OPERATION EXEMPTION--  
BNSF RAILWAY COMPANY

Yellowstone Valley Railroad, Inc. ("YVRR"), a non-carrier, has filed a notice of exemption to lease from BNSF Railway Company and operate two rail lines totaling 171.97 miles in length. The rail lines being leased are located between: (1) Milepost 6.0, near Glendive, Montana, and Milepost 78.6, near Snowden, Montana; and (2) Milepost 0.93, near Bainville, Montana, and Milepost 100.3, near Scobey, Montana. In conjunction with the lease of the rail lines, YVRR will acquire incidental, overhead trackage rights over the rail lines located between: (1) Milepost 78.6, on the BNSF Sidney Subdivision near Snowden, Montana, and Milepost 0.93, on the BNSF Scobey Subdivision, near Bainville, Montana via the BNSF Glasgow Subdivision between Snowden and Bainville; and (2) Milepost 6.0, near Glendive, and Milepost 0, at Glendive, Montana.

This transaction is related to STB Docket No. 34736, Watco Companies, Inc. -- Continuance In Control Exemption – Yellowstone Valley Railroad, Inc., wherein Watco Companies, Inc., has concurrently filed a verified notice to continue in control of YVRR upon YVRR becoming a Class III rail carrier.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

# VERIFICATION

STATE OF KANSAS

COUNTY OF CRAWFORD

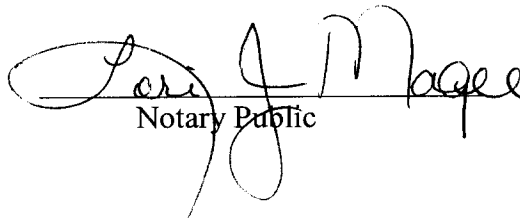
)  
) ss.  
)

I, Arthur E. McKechnie III, being duly sworn depose and state that I am Assistant Secretary of Yellowstone Valley Railroad, Inc., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

  
Arthur E. McKechnie III

SUBSCRIBED AND SWORN TO before me this 25 day of July, 2005, in the County of Crawford, State of Kansas.

My Commission Expires: 8/16/08

  
Notary Public